

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ROYAL GORGE FIELD OFFICE**

**DECISION RECORD
Fairplay – Destiny Placer Mine
DOI-BLM-CO-200-2009-0099-EA**

DECISION: It is my decision to authorize the Proposed Action as described in the attached EA.

The proposal is to establish a gold placer operation that includes sand and gravel operations, which would be a little less than five acres in size. The life of the mine is estimated between 5 and 10 years, which includes four to five month seasonal shutdowns.

The proposed mine is located on an isolated 80-acre BLM parcel, just south of the town of Fairplay in Park County. The 4.84 acres proposed for the mining operations are currently under claim by multiple parties.

Mining would begin in the northeast corner of the site utilizing 1 to 1 slopes for sidewalls. Initially topsoil would be pushed into a berm around the perimeter of the mine area and seeded and planted as recommended by Natural Resource Conservation Service for stabilization. Processing equipment would initially be set up on the western end of the site, eventually being placed on the pit floor. Mining would begin on the east side of the site and progress westward. The overall pit area dimensions are estimated at 275 by 250 feet, or about 1.5 acres, with a total depth of 25 feet. As material is processed it will be stockpiled in the western portion of the project area for sale and/or later use in reclamation

Access to the site will be developed off of an existing county road located south of the BLM parcel.

RATIONALE: This Plan of Operations will develop federal gold and sand and gravel resources. Extensive mining has occurred in the area of this subject parcel, primarily within placers paralleling the river, both above and below Fairplay. The minerals associated with this parcel are open to the Public Land Laws, which include the Mining Law of 1872. There are currently two 40-acre placer claims on this parcel that were located in 1993.

The area is very diverse and includes grazing lands, mining operations, businesses and residential areas along a main access corridor from Colorado Springs to the mountain amenities of this region. The addition of this mining operation would have a negligible cumulative impact to the area's air quality, noise or negative alteration of social environments.

MITIGATION MEASURES\MONITORING:

Air Quality

- Wet-processing of material to reduce fugitive dust to neighboring property owners.
- Utilize standards for stationary diesel engines and use of ultra low-sulphur diesel fuel in the generator, as per CDPHE guidelines.
- Installation of a wind sock to monitor wind conditions and dust movement to nearby housing.
- Cooperative curtailment of mining operations if dust stagnates over neighboring subdivisions.
- Daily application of water to exposed road surface during the operating season, in order to suppress dust.
- Promotion of car-pooling to reduce dust generation from mine staff vehicle traffic.
- Mine material movement scheduling to reduce total fugitive dust generation from the operation
- Scheduled neighbor communication to reduce impacted homeowner and recreation exposure to fugitive dust generated by the mining activity on public land, as needed.
- A short-term recommended off-site mitigation is mine applicant cooperative dust suppression techniques on un-surfaced county administered access roads (ie, water, MgCl or other)
- A long-term recommended off-site mitigation is mine applicant cooperative financing to pave the 1-mile access route to the site to reduce total fugitive dust generation from material and vehicle movement.

Geologic and Mineral Resources

- Prior to any removal and sale of the sand and gravel material not needed for reclamation activities, the operator is required to obtain a Mineral Materials contract from the BLM, in accordance with 43 CFR 3600.

Soils; Vegetation

- The top soil from the access road and any roads inside the 5 acre project site will be stockpiled and seeded.

Water Quality, Surface and Ground

- Topsoil (A horizon) and the B soil horizon, or 18 inches depth, whichever is greater, needs to be kept separate from lower soil layers so that there are separate stockpiles of each. Upon reclamation, these layers would then be placed on top so that the soil layers remain in order. The State Division of Reclamation, Mining, and Safety 110(2) permit would further outline reclamation and the BLM should be included in the development of that plan.
- The proposed settling pond should be lined.

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Invasive Plants

- The site should be monitored for invasive plants prior to and during implementation and for at least five growing seasons after the project area has been rehabilitated. All invasive plants identified by monitoring must be treated as soon as conditions for effective treatment exist (ie. Proper weather and phenological stage for treatment). The proponent will be responsible for monitoring and treatment of invasive plants. Periodic monitoring would be done by BLM staff.

Threatened and Endangered Species

- Requirement of Destiny Mining, LLC to become a member of the South Platte Water Related Activities Program, Inc.

Wetlands and Riparian Zones; Wildlife, Aquatic

- Blizzard conditions are common in the proposal area. As such, it is probable that excavated areas will drift in heavily resulting in short term melt-water at volumes greater than anticipated from annual rain gauge averages. Drift snowmelt will be a likely unanticipated source of runoff (also around buildings equipment) through the expected life of this mine. Equipment should not be left in the pit during seasonal shutdowns, where interaction between ponded storm-water and contaminant sources are possible.

Wildlife, Terrestrial

- The winter shutdown period should surround the dates of December 1 to April 30, the time in which elk are most likely to use winter range.

Migratory Birds

- The BLM is required by the Migratory Bird Treaty Act to minimized take of migratory birds, including individual birds, active nests, and/or eggs. The proposed action will not likely take adult birds, but vegetation disturbance during the nesting season could take nests or eggs of ground nesting birds. Therefore, the area that will likely be disturbed during the nesting season (May 15-July 15) must have vegetation removed prior to May 15 to discourage nest initiation of ground nesting birds.

Paleontological Resources

- Per 43 CFR § 3809.420(b) (8)(i, ii, iii), operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains on Federal lands. Operators shall immediately bring to the attention of the authorized officer any

paleontological resources that might be altered or destroyed on Federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days after notification to the authorized officer of such discovery. The Federal Government shall have the responsibility and bear the cost of investigations and salvage of paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.

Visual Resources

- In order to further reduce impacts to visual resources and indirectly socio-economics it is recommended that the berm be designed and constructed to mimic nature as opposed to a traditional uniform berm. It is also recommended that the proposed planting include trees found in the area and be placed to appear natural looking to break up the line and form of the berm. These should not be lined uniformly but placed in random natural places to break up the lines. In addition, the Noise Assessment that was finalized in March 2011 recommends keeping operations within the pit to mitigate noise impacts, which would also benefit visual resources.

Noise

- All metal parts of the washplant operation that will come in contact with the rock will be lined with rubber material, in order to minimize the noise generated.
- Noise emission during pit operations will not exceed 55 dB(A) when measured at the pit boundary. The only exception would be during initial surface soil scraping and storage of that material which will be used during reclamation. The Applicant expects the duration of these activities to be less than one week.
- Mining will start at the south portion of the pit and move to the north. The initial pit floor will be 25 feet below grade and the mining face will be on a 1 to 1 slope (45 deg). This mine face will be a noise barrier and will reduce the noise from the loader and back hoe to less than 55 dB(A) at the pit boundary.
- The diesel engine driven electric generator will be set on the pit floor. The mine face will be a noise barrier and the noise level at the pit boundary will be less than 55 dB(A). The existing electric generator may be replaced with one of lower power, which would be quieter than the 350 KW unit currently used by the Applicant.
- The electric generator, loader and back hoe will be fitted with high performance mufflers. At the present time, some of this equipment is unmuffled.
- All backup alarms will be of the white noise type and will be adjusted during installation to meet all regulatory requirements.
- Customer haul trucks that exceed the noise limits specified in CRS 25-1 2-107 may be denied access to the pit until they have been maintained and are in compliance.
- Noise measurements may be taken once the pit expansion area of the pit is in production to verify compliance with the 55 dB(A) noise limit at the pit boundary. Measurement results will be detailed in a report certified by a Professional Acoustical Engineer registered in the State of Colorado.

Wastes, Hazardous or Solid

- Hazardous or regulated substances, including petroleum products, to be used on site must be listed in an operations plan.
- Use of hazardous substances requires that all appropriate State and Federal Regulations be complied with including, but not limited to, Material Safety Data Sheets (MSDS) on hand and use of necessary Personal Protective Clothing (PPE).
- On-site disposal or misuse of hazardous substances or Resource, Conservation, and Recovery Act (RCRA) regulated wastes, including hydrocarbons, is not authorized. On-site disposal will subject the contractor to at least the cost of reclamation and the appropriate disposal of contaminated soil.
- Incidental leaks from fittings, gaskets or ruptured hoses will not subject the contractor to remedial requirements. They will be considered to be normal and unavoidable losses and should not result in impacts to the site. Continual leaks will be noted on inspection reports and correction through maintenance required.
- Maintenance and repair operations that require the draining of engines or hydraulic systems may be conducted on site only if all of the fluids are captured, containerized, and removed from public lands for proper disposal.
- The contractor will be required to report to BLM and other applicable agencies, any spills of any volume of a "hazardous substance" and any spill with a volume of 25 gallons or more of hydrocarbons. Nothing in this document or in the approval of a Plan of Operations by the BLM authorizes or in any way permits a release or threat of a release of hazardous substances into the environment that will require a response action or result in the incurrence of response costs. All designs, monitoring plans, and procedures required by the Plan of Operations are subject to the requirement of 43 CFR 3809.1(a), in which anyone intending to develop mineral resources on the public lands must prevent unnecessary or undue degradation of the land and reclaim disturbed areas. However, the operator's compliance with such requirement in no way insulates or releases it from any liability or obligations which may arise with respect to its operations under any applicable environmental law, including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq.

Recreation

- Allow for public access from the closest subdivision where the BLM parcel is accessible from the public road or work with a landowner in the area to secure nearby public access to the remainder of the BLM parcel.
- Incorporate identified mitigations to air quality, noise and visual resources to minimize impacts to recreation resources in the area.

Hydrology/Water Rights

- If a well is installed in the future, the following will need be implemented at the conclusion of mining: the well it would need to be plugged, abandoned, and the water

rights revert to the BLM or, at the discretion of the BLM, the well and associated water rights would revert directly to the BLM.

PROTEST/APPEALS: This decision shall go into effect immediately upon the date it is signed by the Authorized Officer, and shall remain in effect while any appeal is pending before the Office of Hearings and Appeals (OHA), unless the OHA issues a stay (43 CFR 4.21(b)). Any appeal of this decision must follow the procedures set forth in 43 CFR 4 and include the information that is required under 43 CFR 3809.802.

A party adversely affected by this decision may (a) Ask the Colorado State Director to review the decision by contacting BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215 or (b) Bypass Colorado State Director review and directly appeal this decision to the OHA at Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203. If you intend to appeal this BLM decision, you must file a notice of appeal in writing with the BLM Royal Gorge Field Office, 3028 E. Main, Cañon City, Colorado, 81212 and use the following table to determine applicable timelines:

If—	And—	Then if you intend to appeal, you must file a notice of appeal with OHA—
(1) You do not request State Director review.	Within 30 calendar days after the date you receive the original decision.
(2) You request State Director review.	The State Director does not accept your request for review.	On the original decision within 30 calendar days of the date you receive the State Director's decision not to review.
(3) You request State Director review.	The State Director has accepted your request for review, but has not made a decision on the merits of the appeal.	On the original decision before the State Director issues a decision.
(4) You request State Director review.	The State Director makes a decision on the merits of the appeal.	On the State Director's decision within 30 calendar days of the date you receive, or are notified of, the State Director's decision.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Keith E. Berger
Keith E. Berger, Field Manager

DATE SIGNED: 7/11/12